

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 98-82

October 20, 1998

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: "Member in Good Standing" and "Member" Union Security Clauses

This memorandum modifies OM 98-53, "Member in Good Standing" Union Security Clauses, dated July 7, 1998. OM 98-53 requires a Region to submit to the Division of Advice cases alleging as unlawful "member in good standing" union security clauses in addition to other meritorious allegations, where the union involved refuses to settle the meritorious allegations and refuses to sign a Jefferson Chemical waiver as to the "member in good standing" clause. Further, included herein is additional direction as to charges that allege as unlawful union security clauses merely requiring employees to become "members."

Regions should no longer submit to Advice cases alleging as unlawful "member in good standing" union security clauses in addition to other meritorious allegations, where the union involved refuses to settle the meritorious allegations and refuses to sign a Jefferson Chemical waiver as to the "member in good standing" clause. In International Brotherhood of Teamsters Local 401 (United Parcel Service), Case 4-CA- 8115, Advice Memorandum dated September 30, 1998, SAM, ADV-98-17, Advice authorized Regions to argue in such cases that the "member in good standing" union security clause is invalid on its face on the two grounds set forth in that Advice Memorandum. Consequently, there is no need for Regions to submit this issue to Advice. Instead, Regions should follow the direction in this Advice Memorandum.

However, the Regions should hold in abeyance pending the Supreme Court's decision in Marquez,¹ charges alleging as unlawful union security clauses merely requiring employees to become "members", in addition to other meritorious allegations, where the union refuses to settle the meritorious allegations and refuses to sign a Jefferson Chemical waiver as to the "member"

¹ Marquez v. Screen Actors Guild, U.S. Sup. Ct. Case 97-1056, order of March 23, 1998 granting cert. to 124 F.3d 1034 (9th Cir. 1997), reported in Daily Labor Report, March 24, 1998, p. C-1, presents the issue of the lawfulness of a "member in good standing" union security clause.

clause. This modifies the General Counsel's Minute in IBEW and IBEW Local 481 (KLF Business & Communications, Inc.), Case 25-CB-7973-1, -2, SAM, APP 98-12, which directs the Regions to submit such issues to Advice, under OM-98-53.

Please notify Deputy Assistant General Counsel Jane C. Schnabel when you are holding such cases in abeyance pending the Supreme Court's decision in Marquez.

If you have any questions relating to this OM, please contact the undersigned or DAGC Schnabel.

R.A.S.

cc: NLRBU

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